

HOUSE BILL No. 1390

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-11-2-35; IC 34-30-2-152.3; IC 35-31.5-2; IC 35-48.

Synopsis: Ephedrine and pseudoephedrine. Provides that materials, compounds, mixtures, or preparations that contain ephedrine or pseudoephedrine are schedule III controlled substances that may be dispensed only by prescription, except for a product that is determined by the state police department (department) to be an extraction resistant or a conversion resistant form of ephedrine or pseudoephedrine. Requires the department to find that a product is an extraction resistant or a conversion resistant form of ephedrine or pseudoephedrine if the department determines that the product does not pose any risk of being used in the manufacture of methamphetamine. Repeals: (1) the statute allowing the dispensing of ephedrine and pseudoephedrine without a prescription; and (2) provisions related to that statute.

Effective: July 1, 2016.

Smaltz, Bacon, Ober, Brown C

January 13, 2016, read first time and referred to Committee on Public Health.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1390

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 10-11-2-35 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]: **Sec. 35. (a) The department may adopt:**
4 **(1) a rule under IC 4-22-2; or**
5 **(2) an emergency rule in the manner provided under**
6 **IC 4-22-2-37.1;**
7 **to declare that a product is an extraction resistant or a conversion**
8 **resistant form of ephedrine or pseudoephedrine.**
9 **(b) The department shall find that a product is an extraction**
10 **resistant or a conversion resistant form of ephedrine or**
11 **pseudoephedrine if the department determines that the product**
12 **does not pose any risk of being used in the manufacture of**
13 **methamphetamine.**
14 SECTION 2. IC 34-30-2-152.3 IS REPEALED [EFFECTIVE JULY
15 1, 2016]. ~~Sec. 152.3. IC 35-48-4-14.7 (Concerning a pharmacy or~~
16 ~~NPLEx retailer who discloses information concerning the sale of a~~
17 ~~product containing ephedrine or pseudoephedrine).~~



1 SECTION 3. IC 35-31.5-2-61 IS REPEALED [EFFECTIVE JULY
2 1, 2016]. Sec. 61: "Constant video monitoring", for purposes of
3 IC 35-48-4-14.7, has the meaning set forth in IC 35-48-4-14.7(b)(1).

4 SECTION 4. IC 35-31.5-2-66 IS REPEALED [EFFECTIVE JULY
5 1, 2016]. Sec. 66: "Convenience package", for purposes of
6 IC 35-48-4-14.7, has the meaning set forth in IC 35-48-4-14.7(b)(2).

7 SECTION 5. IC 35-31.5-2-120 IS REPEALED [EFFECTIVE JULY
8 1, 2016]. Sec. 120: "Ephedrine", for purposes of IC 35-48-4-14.7, has
9 the meaning set forth in IC 35-48-4-14.7(b)(3).

10 SECTION 6. IC 35-31.5-2-256 IS REPEALED [EFFECTIVE JULY
11 1, 2016]. Sec. 256: "Pseudoephedrine", for purposes of
12 IC 35-48-4-14.7, has the meaning set forth in IC 35-48-4-14.7.

13 SECTION 7. IC 35-31.5-2-279 IS REPEALED [EFFECTIVE JULY
14 1, 2016]. Sec. 279: "Retailer", for purposes of IC 35-48-4-14.7, has the
15 meaning set forth in IC 35-48-4-14.7.

16 SECTION 8. IC 35-31.5-2-320 IS REPEALED [EFFECTIVE JULY
17 1, 2016]. Sec. 320: "Suspicious order", for purposes of IC 35-48-4-14.7,
18 has the meaning set forth in IC 35-48-4-14.7.

19 SECTION 9. IC 35-31.5-2-343 IS REPEALED [EFFECTIVE JULY
20 1, 2016]. Sec. 343: "Unusual theft", for purposes of IC 35-48-4-14.7,
21 has the meaning set forth in IC 35-48-4-14.7.

22 SECTION 10. IC 35-48-2-8, AS AMENDED BY P.L.56-2015,
23 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2016]: Sec. 8. (a) The controlled substances listed in this
25 section are included in schedule III.

26 (b) Stimulants. Unless specifically excepted or unless listed in
27 another schedule, any material, compound, mixture, or preparation
28 which contains any quantity of the following substances having a
29 stimulant effect on the central nervous system, including its salts,
30 isomers (whether optical, position, or geometric), and salts of such
31 isomers whenever the existence of such salts, isomers, and salts of
32 isomers is possible within the specific chemical designation:

33 (1) Those compounds, mixtures, or preparations in dosage unit
34 form containing any stimulant substances listed in schedule II
35 which compounds, mixtures, or preparations were listed on April
36 1, 1986, as excepted compounds under 21 CFR 1308.32, and any
37 other drug of the quantitative composition shown in that list for
38 those drugs or that is the same except that it contains a lesser
39 quantity of controlled substances (1405).

40 (2) Benzphetamine (1228).

41 (3) Chlorphentermine (1645).

42 (4) Clortermine (1647).



- 1 (5) Phendimetrazine (1615).
- 2 (c) Depressants. Unless specifically excepted or unless listed in
- 3 another schedule, any material, compound, mixture, or preparation
- 4 which contains any quantity of the following substances having a
- 5 depressant effect on the central nervous system:
- 6 (1) Any compound, mixture, or preparation containing:
- 7 (A) amobarbital (2126);
- 8 (B) secobarbital (2316);
- 9 (C) pentobarbital (2271); or
- 10 (D) any of their salts;
- 11 and one (1) or more other active medicinal ingredients which are
- 12 not listed in any schedule.
- 13 (2) Any suppository dosage form containing:
- 14 (A) amobarbital (2126);
- 15 (B) secobarbital (2316);
- 16 (C) pentobarbital (2271); or
- 17 (D) any of their salts;
- 18 and approved by the Food and Drug Administration for marketing
- 19 only as a suppository.
- 20 (3) Any substance which contains any quantity of a derivative of
- 21 barbituric acid, or any salt thereof (2100).
- 22 (4) Chlorhexadol (2510).
- 23 (5) Embutramide (2020).
- 24 (6) Lysergic acid (7300).
- 25 (7) Lysergic acid amide (7310).
- 26 (8) Methypylon (2575).
- 27 (9) Sulfondiethylmethane (2600).
- 28 (10) Sulfonethylmethane (2605).
- 29 (11) Sulfonmethane (2610).
- 30 (12) A combination product containing Tiletamine and
- 31 Zolazepam or any salt thereof (Telazol) (7295).
- 32 (13) Any drug product containing gamma-hydroxybutyric acid,
- 33 including its salts, isomers, and salts of isomers, for which an
- 34 application is approved under section 505 of the federal Food,
- 35 Drug and Cosmetic Act, 21 U.S.C. 301 et seq. (2012).
- 36 (d) Nalorphine (a narcotic drug) (9400).
- 37 (e) Narcotic Drugs. Unless specifically excepted or unless listed in
- 38 another schedule, any material, compound, mixture, or preparation
- 39 containing any of the following narcotic drugs, or their salts calculated
- 40 as the free anhydrous base or alkaloid, in the following limited
- 41 quantities:
- 42 (1) Not more than 1.8 grams of codeine, per 100 milliliters or not



more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium (9803).

(2) Not more than 1.8 grams of codeine, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts (9804).

(3) Not more than 1.8 grams of dihydrocodeine, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts (9807).

(4) Not more than 300 milligrams of ethylmorphine, per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts (9808).

(5) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts (9809).

(6) Not more than 50 milligrams of morphine, per 100 milliliters or per 100 grams with one (1) or more active nonnarcotic ingredients in recognized therapeutic amounts (9810).

(7) Buprenorphine (9064).

(f) Anabolic steroid (as defined in 21 U.S.C. 802(41)(A) and 21 U.S.C. 802(41)(B)).

(g) The board shall except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections (b) through (e) from the application of any part of this article if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(h) Any material, compound, mixture, or preparation which contains any quantity of Ketamine (7285).

(i) Hallucinogenic substances:

Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product (7369).

(j) Except for a product that has been found by the state police department to be an extraction resistant or a conversion resistant form of ephedrine or pseudoephedrine under IC 10-11-2-35, a



1 **material, compound, mixture, or preparation that contains a**
 2 **quantity of any of the following substances, pure or adulterated:**

3 **(1) Ephedrine.**

4 **(2) Pseudoephedrine.**

5 SECTION 11. IC 35-48-4-7, AS AMENDED BY P.L.158-2013,
 6 SECTION 633, IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2016]: Sec. 7. (a) A person who, without a valid
 8 prescription or order of a practitioner acting in the course of the
 9 practitioner's professional practice, knowingly or intentionally
 10 possesses a controlled substance (pure or adulterated) classified in
 11 schedule I, II, III, or IV, except marijuana, hashish, salvia, or a
 12 synthetic cannabinoid, commits possession of a controlled substance,
 13 a Class A misdemeanor, except as provided in subsection (b).

14 **(b) Except as provided in section 14.5(b) of this chapter,** the
 15 offense is a Level 6 felony if the person commits the offense and an
 16 enhancing circumstance applies.

17 (c) A person who, without a valid prescription or order of a
 18 practitioner acting in the course of the practitioner's professional
 19 practice, knowingly or intentionally obtains:

20 (1) more than four (4) ounces of schedule V controlled substances
 21 containing codeine in any given forty-eight (48) hour period
 22 unless pursuant to a prescription;

23 (2) a schedule V controlled substance pursuant to written or
 24 verbal misrepresentation; or

25 (3) possession of a schedule V controlled substance other than by
 26 means of a prescription or by means of signing an exempt
 27 narcotic register maintained by a pharmacy licensed by the
 28 Indiana state board of pharmacy;

29 commits a Class A misdemeanor.

30 SECTION 12. IC 35-48-4-14.5, AS AMENDED BY P.L.168-2014,
 31 SECTION 105, IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2016]: Sec. 14.5. (a) As used in this section,
 33 "chemical reagents or precursors" refers to one (1) or more of the
 34 following:

35 (1) Ephedrine, **except for ephedrine contained in a product**
 36 **that has been found by the state police department to be an**
 37 **extraction resistant or a conversion resistant form of**
 38 **ephedrine under IC 10-11-2-35.**

39 (2) Pseudoephedrine, **except for pseudoephedrine contained in**
 40 **a product that has been found by the state police department**
 41 **to be an extraction resistant or a conversion resistant form of**
 42 **pseudoephedrine under IC 10-11-2-35.**



- 1 (3) Phenylpropanolamine.
- 2 (4) The salts, isomers, and salts of isomers of a substance
- 3 identified in subdivisions (1) through (3).
- 4 (5) Anhydrous ammonia or ammonia solution (as defined in
- 5 IC 22-11-20-1).
- 6 (6) Organic solvents.
- 7 (7) Hydrochloric acid.
- 8 (8) Lithium metal.
- 9 (9) Sodium metal.
- 10 (10) Ether.
- 11 (11) Sulfuric acid.
- 12 (12) Red phosphorous.
- 13 (13) Iodine.
- 14 (14) Sodium hydroxide (lye).
- 15 (15) Potassium dichromate.
- 16 (16) Sodium dichromate.
- 17 (17) Potassium permanganate.
- 18 (18) Chromium trioxide.
- 19 (19) Benzyl cyanide.
- 20 (20) Phenylacetic acid and its esters or salts.
- 21 (21) Piperidine and its salts.
- 22 (22) Methylamine and its salts.
- 23 (23) Isosafrole.
- 24 (24) Safrole.
- 25 (25) Piperonal.
- 26 (26) Hydriodic acid.
- 27 (27) Benzaldehyde.
- 28 (28) Nitroethane.
- 29 (29) Gamma-butyrolactone.
- 30 (30) White phosphorus.
- 31 (31) Hypophosphorous acid and its salts.
- 32 (32) Acetic anhydride.
- 33 (33) Benzyl chloride.
- 34 (34) Ammonium nitrate.
- 35 (35) Ammonium sulfate.
- 36 (36) Hydrogen peroxide.
- 37 (37) Thionyl chloride.
- 38 (38) Ethyl acetate.
- 39 (39) Pseudoephedrine hydrochloride.
- 40 (b) A person who possesses more than ten (10) grams of ephedrine,
- 41 pseudoephedrine, or phenylpropanolamine, pure or adulterated,
- 42 commits a Level 6 felony. However, the offense is a Level 5 felony if



- 1 the person possessed:
- 2 (1) a firearm while possessing more than ten (10) grams of
- 3 ephedrine, pseudoephedrine, or phenylpropanolamine, pure or
- 4 adulterated; or
- 5 (2) more than ten (10) grams of ephedrine, pseudoephedrine, or
- 6 phenylpropanolamine, pure or adulterated, in, on, or within five
- 7 hundred (500) feet of:
- 8 (A) school property while a person under eighteen (18) years
- 9 of age was reasonably expected to be present; or
- 10 (B) a public park while a person under eighteen (18) years of
- 11 age was reasonably expected to be present.
- 12 (c) A person who possesses anhydrous ammonia or ammonia
- 13 solution (as defined in IC 22-11-20-1) with the intent to manufacture
- 14 methamphetamine or amphetamine, schedule II controlled substances
- 15 under IC 35-48-2-6, commits a Level 6 felony. However, the offense
- 16 is a Level 5 felony if the person possessed:
- 17 (1) a firearm while possessing anhydrous ammonia or ammonia
- 18 solution (as defined in IC 22-11-20-1) with intent to manufacture
- 19 methamphetamine or amphetamine, schedule II controlled
- 20 substances under IC 35-48-2-6; or
- 21 (2) anhydrous ammonia or ammonia solution (as defined in
- 22 IC 22-11-20-1) with intent to manufacture methamphetamine or
- 23 amphetamine, schedule II controlled substances under
- 24 IC 35-48-2-6, in, on, or within five hundred (500) feet of:
- 25 (A) school property while a person under eighteen (18) years
- 26 of age was reasonably expected to be present; or
- 27 (B) a public park while a person under eighteen (18) years of
- 28 age was reasonably expected to be present.
- 29 (d) Subsection (b) does not apply to a:
- 30 (1) licensed health care provider, pharmacist, retail distributor,
- 31 wholesaler, manufacturer, warehouseman, or common carrier or
- 32 an agent of any of these persons if the possession is in the regular
- 33 course of lawful business activities; or
- 34 (2) person who possesses more than ten (10) grams of a substance
- 35 described in subsection (b) if the substance is possessed under
- 36 circumstances consistent with typical medicinal or household use,
- 37 including:
- 38 (A) the location in which the substance is stored;
- 39 (B) the possession of the substance in a variety of:
- 40 (i) strengths;
- 41 (ii) brands; or
- 42 (iii) types; or



- 1 (C) the possession of the substance:
- 2 (i) with different expiration dates; or
- 3 (ii) in forms used for different purposes.
- 4 (e) A person who possesses two (2) or more chemical reagents or
- 5 precursors with the intent to manufacture a controlled substance
- 6 commits a Level 6 felony.
- 7 (f) An offense under subsection (e) is a Level 5 felony if the person
- 8 possessed:
- 9 (1) a firearm while possessing two (2) or more chemical reagents
- 10 or precursors with intent to manufacture a controlled substance;
- 11 or
- 12 (2) two (2) or more chemical reagents or precursors with intent to
- 13 manufacture a controlled substance in, on, or within five hundred
- 14 (500) feet of:
- 15 (A) school property while a person under eighteen (18) years
- 16 of age was reasonably expected to be present; or
- 17 (B) a public park while a person under eighteen (18) years of
- 18 age was reasonably expected to be present.
- 19 (g) A person who sells, transfers, distributes, or furnishes a chemical
- 20 reagent or precursor to another person with knowledge or the intent that
- 21 the recipient will use the chemical reagent or precursors to manufacture
- 22 a controlled substance commits unlawful sale of a precursor, a Level
- 23 6 felony. However, the offense is a Level 5 felony if the person sells,
- 24 transfers, distributes, or furnishes more than ten (10) grams of
- 25 ephedrine, pseudoephedrine, or phenylpropanolamine.
- 26 (h) This subsection does not apply to a drug containing ephedrine,
- 27 pseudoephedrine, or phenylpropanolamine that is dispensed under a
- 28 prescription. A person who:
- 29 (1) has been convicted of:
- 30 (A) dealing in methamphetamine (IC 35-48-4-1.1);
- 31 (B) possession of more than ten (10) grams of ephedrine,
- 32 pseudoephedrine, or phenylpropanolamine (subsection (b));
- 33 (C) possession of anhydrous ammonia or ammonia solution (as
- 34 defined in IC 22-11-20-1) with intent to manufacture
- 35 methamphetamine or amphetamine (subsection (c));
- 36 (D) possession of two (2) or more chemical reagents or
- 37 precursors with the intent to manufacture a controlled
- 38 substance (subsection (e)); or
- 39 (E) unlawful sale of a precursor (subsection (g)); and
- 40 (2) not later than seven (7) years from the date the person was
- 41 sentenced for the offense;
- 42 knowingly or intentionally possesses ephedrine, pseudoephedrine, or



phenylpropanolamine, pure or adulterated, commits possession of a precursor by a methamphetamine offender, a Level 6 felony.

SECTION 13. IC 35-48-4-14.7 IS REPEALED [EFFECTIVE JULY 1, 2016]. Sec. 14.7: (a) This section does not apply to the following:

(1) Ephedrine or pseudoephedrine dispensed pursuant to a prescription;

(2) The sale of a drug containing ephedrine or pseudoephedrine to a licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, or an agent of any of these persons if the sale occurs in the regular course of lawful business activities. However, a retail distributor, wholesaler, or manufacturer is required to report a suspicious order to the state police department in accordance with subsection (g);

(3) The sale of a drug containing ephedrine or pseudoephedrine by a person who does not sell exclusively to walk-in customers for the personal use of the walk-in customers. However, if the person described in this subdivision is a retail distributor, wholesaler, or manufacturer, the person is required to report a suspicious order to the state police department in accordance with subsection (g);

(b) The following definitions apply throughout this section:

(1) "Constant video monitoring" means the surveillance by an automated camera that:

(A) records at least one (1) photograph or digital image every ten (10) seconds;

(B) retains a photograph or digital image for at least seventy-two (72) hours;

(C) has sufficient resolution and magnification to permit the identification of a person in the area under surveillance; and

(D) stores a recorded photograph or digital image at a location that is immediately accessible to a law enforcement officer;

(2) "Convenience package" means a package that contains a drug having as an active ingredient not more than sixty (60) milligrams of ephedrine or pseudoephedrine, or both;

(3) "Ephedrine" means pure or adulterated ephedrine;

(4) "Pharmacy or NPLEx retailer" means:

(A) a pharmacy, as defined in IC 25-26-13-2;

(B) a retailer containing a pharmacy, as defined in IC 25-26-13-2; or

(C) a retailer that electronically submits the required information to the National Precursor Log Exchange (NPLEx) administered by the National Association of Drug Diversion Investigators (NADDI);



(5) "Pseudoephedrine" means pure or adulterated pseudoephedrine.

(6) "Retailer" means a grocery store, general merchandise store, or other similar establishment. The term does not include a pharmacy or NPLEx retailer.

(7) "Suspicious order" means a sale or transfer of a drug containing ephedrine or pseudoephedrine if the sale or transfer:

(A) is a sale or transfer that the retail distributor, wholesaler, or manufacturer is required to report to the United States Drug Enforcement Administration;

(B) appears suspicious to the retail distributor, wholesaler, or manufacturer in light of the recommendations contained in Appendix A of the report to the United States attorney general by the suspicious orders task force under the federal Comprehensive Methamphetamine Control Act of 1996; or

(C) is for cash or a money order in a total amount of at least two hundred dollars (\$200).

(8) "Unusual theft" means the theft or unexplained disappearance from a particular pharmacy or NPLEx retailer of drugs containing ten (10) grams or more of ephedrine, pseudoephedrine, or both in a twenty-four (24) hour period.

(c) A drug containing ephedrine or pseudoephedrine may be sold only by a pharmacy or NPLEx retailer. Except as provided in subsection (f), a retailer may not sell a drug containing ephedrine or pseudoephedrine.

(d) A pharmacy or NPLEx retailer may sell a drug that contains the active ingredient of ephedrine, pseudoephedrine, or both only if the pharmacy or NPLEx retailer complies with the following conditions:

(1) The pharmacy or NPLEx retailer does not sell the drug to a person less than eighteen (18) years of age.

(2) The pharmacy or NPLEx retailer does not sell drugs containing more than:

(A) three and six-tenths (3.6) grams of ephedrine or pseudoephedrine, or both, to one (1) individual on one (1) day;

(B) seven and two-tenths (7.2) grams of ephedrine or pseudoephedrine, or both, to one (1) individual in a thirty (30) day period; or

(C) sixty-one and two-tenths (61.2) grams of ephedrine or pseudoephedrine, or both, to one (1) individual in a three hundred sixty-five (365) day period.

(3) The pharmacy or NPLEx retailer requires:

(A) the purchaser to produce a valid government issued photo



1 identification card showing the date of birth of the person;
 2 (B) the purchaser to sign a written or electronic log attesting
 3 to the validity of the information; and
 4 (C) the clerk who is conducting the transaction to initial or
 5 electronically record the clerk's identification on the log.

6 Records from the completion of a log must be retained for at least
 7 two (2) years. A law enforcement officer has the right to inspect
 8 and copy a log or the records from the completion of a log in
 9 accordance with state and federal law. A pharmacy or NPLeX
 10 retailer may not sell or release a log or the records from the
 11 completion of a log for a commercial purpose. The Indiana
 12 criminal justice institute may obtain information concerning a log
 13 or the records from the completion of a log from a law
 14 enforcement officer if the information may not be used to identify
 15 a specific individual and is used only for statistical purposes. A
 16 pharmacy or NPLeX retailer that in good faith releases
 17 information maintained under this subsection is immune from
 18 civil liability unless the release constitutes gross negligence or
 19 intentional, wanton, or willful misconduct.

20 (4) The pharmacy or NPLeX retailer maintains a record of
 21 information for each sale of a nonprescription product containing
 22 pseudoephedrine or ephedrine. Required information includes:

23 (A) the name and address of each purchaser;
 24 (B) the type of identification presented;
 25 (C) the governmental entity that issued the identification;
 26 (D) the identification number; and
 27 (E) the ephedrine or pseudoephedrine product purchased,
 28 including the number of grams the product contains and the
 29 date and time of the transaction.

30 (5) Beginning January 1, 2012, a pharmacy or NPLeX retailer
 31 shall, except as provided in subdivision (6), before completing a
 32 sale of an over-the-counter product containing pseudoephedrine
 33 or ephedrine, electronically submit the required information to the
 34 National Precursor Log Exchange (NPLeX) administered by the
 35 National Association of Drug Diversion Investigators (NADDI);
 36 if the NPLeX system is available to pharmacies or NPLeX
 37 retailers in the state without a charge for accessing the system.
 38 The pharmacy or NPLeX retailer may not complete the sale if the
 39 system generates a stop sale alert.

40 (6) If a pharmacy or NPLeX retailer selling an over-the-counter
 41 product containing ephedrine or pseudoephedrine experiences
 42 mechanical or electronic failure of the electronic sales tracking



1 system and is unable to comply with the electronic sales tracking
 2 requirement; the pharmacy or NPLeX retailer shall maintain a
 3 written log or an alternative electronic recordkeeping mechanism
 4 until the pharmacy or NPLeX retailer is able to comply with the
 5 electronic sales tracking requirement.

6 (7) The pharmacy or NPLeX retailer stores the drug behind a
 7 counter in an area inaccessible to a customer or in a locked
 8 display case that makes the drug unavailable to a customer
 9 without the assistance of an employee.

10 (e) A person may not purchase drugs containing more than:

11 (1) three and six-tenths (3.6) grams of ephedrine or
 12 pseudoephedrine; or both; on one (1) day;

13 (2) seven and two-tenths (7.2) grams of ephedrine or
 14 pseudoephedrine; or both; in a thirty (30) day period; or

15 (3) sixty-one and two-tenths (61.2) grams of ephedrine or
 16 pseudoephedrine; or both; in a three hundred sixty-five (365) day
 17 period.

18 These limits apply to the total amount of base ephedrine and
 19 pseudoephedrine contained in the products and not to the overall
 20 weight of the products.

21 (f) This subsection only applies to convenience packages. A retailer
 22 may sell convenience packages under this section without complying
 23 with the conditions listed in subsection (d):

24 (1) after June 30, 2013; and

25 (2) before January 1, 2014.

26 A retailer may not sell drugs containing more than sixty (60)
 27 milligrams of ephedrine or pseudoephedrine; or both in any one (1)
 28 transaction. A retailer who sells convenience packages must secure the
 29 convenience packages behind the counter in an area inaccessible to a
 30 customer or in a locked display case that makes the drug unavailable
 31 to a customer without the assistance of an employee. A retailer may not
 32 sell a drug containing ephedrine or pseudoephedrine after December
 33 31, 2013.

34 (g) A retail distributor, wholesaler, or manufacturer shall report a
 35 suspicious order to the state police department in writing:

36 (h) Not later than three (3) days after the discovery of an unusual
 37 theft at a particular retail store; the pharmacy or NPLeX retailer shall
 38 report the unusual theft to the state police department in writing. If
 39 three (3) unusual thefts occur in a thirty (30) day period at a particular
 40 pharmacy or NPLeX retailer; the pharmacy or NPLeX retailer shall, for
 41 at least one hundred eighty (180) days after the date of the last unusual
 42 theft; locate all drugs containing ephedrine or pseudoephedrine at that



1 particular pharmacy or NPLeX retailer behind a counter in an area
 2 inaccessible to a customer or in a locked display case that makes the
 3 drug unavailable to customers without the assistance of an employee.

4 (i) A unit (as defined in IC 36-1-2-23) may not adopt an ordinance
 5 after February 1, 2005, that is more stringent than this section.

6 (j) A person who knowingly or intentionally violates this section
 7 commits a Class C misdemeanor. However, the offense is a Class A
 8 misdemeanor if the person has a prior unrelated conviction under this
 9 section.

10 (k) A pharmacy or NPLeX retailer that uses the electronic sales
 11 tracking system in accordance with this section is immune from civil
 12 liability for any act or omission committed in carrying out the duties
 13 required by this section, unless the act or omission was due to
 14 negligence, recklessness, or deliberate or wanton misconduct. A
 15 pharmacy or NPLeX retailer is immune from liability to a third party
 16 unless the pharmacy or NPLeX retailer has violated a provision of this
 17 section and the third party brings an action based on the pharmacy's or
 18 NPLeX retailer's violation of this section.

19 (l) The following requirements apply to the NPLeX:

20 (1) Information contained in the NPLeX may be shared only with
 21 law enforcement officials.

22 (2) A law enforcement official may access Indiana transaction
 23 information maintained in the NPLeX for investigative purposes.

24 (3) NADDI may not modify sales transaction data that is shared
 25 with law enforcement officials.

26 (4) At least one (1) time per week, NADDI shall forward Indiana
 27 data contained in the NPLeX, including data concerning a
 28 transaction that could not be completed due to the issuance of a
 29 stop sale alert, to the state police department.

